

UNITED STATES OF AMERICA

v.

EDWARD JOSEPH MATISH III,

Defendant.

As EFF noted in its initial motion, however, this case *does* present novel and complex questions of technology and constitutional law, areas in which EFF has unique experience, perspective, and interest. Indeed, EFF has served as *amicus curiae* at the federal district court level in numerous criminal cases involving complex questions of technology and law (like the case here). *See, e.g., United States v. Cassidy*, 11-cr-00091 (D. Md. 2011) (*amicus* in case concerning First Amendment implications of prosecution based on an alleged threat made through Twitter); *United States v. Fricosu*, 841 F. Supp. 2d 1232 (D. Colo. 2012) (*amicus* in case concerning Fifth Amendment implications of compelled decryption of laptop); *United States v. Decryption of a Seized Data Storage System*, 2:13-mj-449-RTR (D. Wis. 2013) (same); *United*

States v. Hasbajrami, 11-cr-623 (E.D.N.Y. 2011) (*amicus* in case considering Fourth Amendment implications of prosecution based on information obtained through electronic surveillance under the FISA Amendments Act); *United States v. Vargas*, 13-cr-06025 (E.D. Wash. 2013) (*amicus*, at invitation of the court, in criminal prosecution based on evidence obtained through warrantless 24-hour video surveillance of the home).

It bears emphasizing that EFF does not here—nor did it in *United States v. Lorente*, 15-cr-00274 (W.D. Wash.)—advocate on behalf of the defendant, as the government suggests. *See* Gov. Opp. at 6. Rather, EFF’s interest in all cases is the sound application of constitutional principles in light of new technology, not the interests of any particular defendant. It is for precisely this reason that EFF’s participation as *amicus curiae* is valuable to the Court—EFF does not share the same specific interest in this case as either the Government or the Defendant.

Finally, EFF acted expeditiously in preparing and filing its brief for the Court’s consideration. EFF only became aware of the case on April 27; EFF reached out to the government to express its interest in filing an *amicus* brief on May 3; and EFF filed its brief less than a week later, on May 9.

For these reasons, and those set forth in its opening brief, EFF respectfully offers its participation as *amicus curiae* and urges the Court to grant its motion for leave to file.

This the 11th day of May 2016.

ELECTRONIC FRONTIER FOUNDATION

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CERTIFICATE OF SERVICE

I certify that on the 11th day of May, 2016, I will electronically file the foregoing with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) to:

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